

REMARKS/ARGUMENTS

Claims 13-21 are present in this application. Claims 1-12 have been cancelled. Claims 13 and 14 have been amended, and new claims 19-21 have been added to the application.

Claims 13 and 14 have been amended to recite that the lower strap extends "continuously" around the user's head. The newly added claims 19-21 also include this limitation.

It is respectfully submitted that claims 13-21 are patentable over Genger et al. European patent application EP 0 958 841, both under 35 U.S.C. §102(b) and under 35 U.S.C. §103(a). A copy of a machine generated translation of Genger et al. is enclosed. Genger et al. shows a nasal mask and headgear in which the headgear includes an upper strap 42 which extends around a patient's head. The strap 42 extends through an element 48. The mask is attached to the upper strap 42 by sliding a tapered upper mask end 34 between the strap 42 and the element 48. Note that the mask cannot pivot or rotate relative to the element 48. Separate lower straps 44 extend to opposite sides of the user's head and are attached to two hooks 32 on opposite sides of the mask.

As amended, the claims now all require that the lower strap must extend continuously around the user's head during use. The lower strap does not have free ends which are attached to separate points on the mask, as in the prior art. The lower part of the mask is attached to the user by placing the lower strap in a recess and is released from the mask by lifting the lower strap from the recess. This differs from the prior art in which two lower strap ends are separately attached to the mask.

By providing a single continuous lower strap, the lower portion of the mask is more easily secured by the mask user than prior art masks which require two attachments. Claims 20-21 also require that the connection between the mask and the brow bar must allow the mask to pivot relative to the brow bar. Since these features

are not shown in the prior art, it is submitted that the claims are patentable over Genger et al. and that the rejections should be withdrawn.

Enclosed is a Form 1449 citing two published U.S. patent applications which are not of record. It should be noted that Eaton et al. publication 20040045551 possibly has conflicting subject matter with the present application, if such subject matter is patentable to both parties. It also should be noted that the Genger et al. reference has not been cited in the Eaton et al. application.

Applicant's undersigned attorney certifies that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of applicant's undersigned attorney after making reasonably inquiry, was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of this Statement. In the event that any fees are required with this Information Disclosure Statement, please charge such fees to MacMillan, Sobanski & Todd, LLC, Deposit Account No. 13-0005.

Please extend the time for responding to the office action to the mailing date of this response. A Petition with authorization to charge the extension fee to MacMillan, Sobanski & Todd, LLC, deposit account No. 13-0005 is enclosed.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Enclosures

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